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**VIA HAND DELIVERY**

December 9, 2009

Kim Collins  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: MUR 6221

Dear Ms. Collins:

We write as counsel to Kilpatrick for United States Congress and Carl Stafford, Treasurer, as well as Transfund PAC and Rod B. Kassir, Treasurer (collectively "Respondents"), in response to a complaint filed with the Federal Election Commission ("FEC" or "Commission") by William James Scoggin on October 18, 2009 (the "Complaint"). The Complaint alleges that Respondents made and received excessive contributions under the Federal Election Campaign Act of 1971, as amended, (the "Act"). These allegations are not supported by fact or law. Accordingly, the Commission should find no reason to believe that Respondents violated the Act and should dismiss this matter immediately.

**A. Factual Background and Legal Analysis**

**1. Transfund PAC Did Not Make Excessive Contributions**

Representative Carolyn Kilpatrick serves Michigan's 13th Congressional District in the U.S. House of Representatives. She first took office on January 3, 1997 and is running for re-election; her current Statement of Candidacy was filed on January 30, 2009. Kilpatrick for United States Congress is Rep. Kilpatrick's authorized campaign committee and Transfund PAC is her Leadership PAC. Transfund PAC was first formed and filed its Statement of Organization on December 19, 2006.

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Transfund PAC filed its Notification of Multicandidate Status with the Commission on July 14, 2008. As stated therein, as of July 1, 2008, Transfund PAC had been in existence for at least six months, had contributed to more than five federal candidates, and had received contributions from fifty-one contributors. Accordingly, it satisfied all of the requirements to qualify for multicandidate status under 2 U.S.C. § 441a(a)(4) (2009) and 11 C.F.R. § 100.5(e)(3).

A list of Transfund PAC's first fifty-one contributors and the date that it received their contributions is attached hereto as Exhibit A. Transfund PAC received contributions from its fiftieth and fifty-first contributors on July 1, 2008. Matthew Moroun and Nora Moroun both signed contribution checks made out to Transfund PAC on June 30, 2008. Copies of these checks are attached hereto as Exhibit B. As indicated by Transfund PAC's contemporaneous notations, these checks were received on July 1, 2008, although an incorrect date of August 1, 2008 was reported. Transfund PAC is amending its report to correct this error. Furthermore, two of Transfund PAC's first fifty-one contributors are not itemized on its FEC reports because they contributed less than \$200.<sup>1</sup>

The Complaint's allegation of excessive contributions hinges entirely on the presumption that Transfund PAC was not qualified as a multicandidate committee as of July 1, 2008. Each contribution identified in the Complaint was made after that date and within the limits that apply to multicandidate committees under 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 110.2(b)(1). Yet, as the facts show, Transfund PAC had qualified as a multicandidate committee by July 1, 2008. There is no reason to believe that Transfund PAC made any excessive contributions.

## **2. Kilpatrick for U.S. Congress Did Not Receive Any Excessive Contributions**

The Complaint alleges that Kilpatrick for U.S. Congress received excessive contributions from Arthur Blackwell in violation of 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1) because Mr. Blackwell made contributions to Kilpatrick for U.S. Congress and Transfund PAC; because Transfund PAC made contributions to Kilpatrick for U.S. Congress; and because, if those contributions are aggregated, they exceed \$2,300 per a single election. These facts do not present a violation of the Act.

Pursuant to 11 C.F.R. § 110.1(h), an individual may contribute to a candidate with respect to a particular election, and also contribute to a political committee that has supported or anticipates supporting the candidate in the same election, and the contributions shall not be aggregated, as long as: (1) the political committee is not the candidate's principal campaign committee, authorized political committee, or a single candidate committee; (2) the contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of,

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<sup>1</sup> The two unitemized contributors are Lawrence N. Verbiest who contributed \$100.00 on January 26, 2007 and Randy Broz, who contributed \$5.00 on May 23, 2008. See Exhibit A.

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that candidate for the same election; and (3) the contributor does not retain control over the funds. 11 C.F.R. § 110.1(h)(1)-(3). There is no allegation nor facts to suggest that Mr. Blackwell retained any control over his contributions or had any knowledge that Transfund PAC would contribute to Kilpatrick for U.S. Congress.

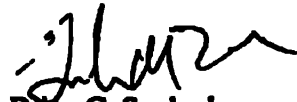
Further, the Commission has specifically recognized that "[a]lthough a contributor might reasonably infer from the solicitation as a whole that some portion of his or her contribution [to a PAC] might be used to support [the candidate], such an inference alone does not suggest that the [contributor] had 'actual knowledge' as to how their funds would be used." MUR 5968 (John Shadegg's Friends), Factual and Legal Analysis approved October 29, 2008 at 5; see MUR 5445 (Quentin Nesbitt), First General Counsel's Report dated February 2, 2005 at 11-12 and Commission Certification dated February 8, 2005 (even when donor admitted that it was likely that "leadership" PACs would support a candidate based on the PACs' contribution histories, it did not constitute actual knowledge).

The allegation of an excessive contribution to Kilpatrick for U.S. Congress rests solely on the existence of a common donor, and the unsupported assertion that the donor gave to Transfund PAC to further support the campaign. The Commission has repeatedly found that a complaint based solely on such speculation should be dismissed.

#### B. Conclusion

For the reasons stated above, the Commission should find no reason to believe that respondents violated the Act and it should dismiss this matter immediately.

Very truly yours,



Brian G. Svoboda  
Graham M. Wilson  
Counsel to Respondents

Enclosures